

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ARTEC EUROPE S.À R.L.,

Plaintiff,

v.

SHENZHEN CREALITY 3D
TECHNOLOGY CO., LTD., AND
KICKSTARTER, PBC,

Defendants.

1:22-2676 (WFK)(VMS)

DECLARATION OF GLEB GUSEV

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I, Gleb Gusev, declare:

1. I am a Co-Founder and Chief Technology Officer of Artec Europe S.à r.l. (“Artec”). I have worked at Artec since January 2011, and previously worked for other affiliated companies, including Artec Group, Inc., beginning in March 2009. My responsibilities include leading Artec’s technical development efforts, overseeing the design and development of Artec’s products and services, and implementing technology solutions for Artec’s products and services.

2. I have been involved in developing Artec’s award-winning and market-leading 3D scanners and 3D software, including the Artec Leo 3D Scanner, the Artec Eva 3D Scanner, the Artec Space Spider 3D Scanner, and the Artec Studio software suite.

3. I provide this Declaration in support of Artec’s Application for a Temporary Restraining Order and Preliminary Injunction. I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, I could and would testify completely to such facts

under oath.

4. Artec is a global leader in 3D scanning technologies. Our company develops, manufactures, and markets award-winning and market-leading 3D scanners and 3D software, including the Artec Leo 3D Scanner, the Artec Eva 3D Scanner, the Artec Space Spider 3D Scanner, and the Artec Studio software suite.

5. Artec owns U.S. Patent 7,768,656 (the '656 Patent), a patent relating to a system and method for scanning, measurement, and capture of objects in three dimensions, which issued on August 3, 2010. Artec's 3D Scanners and 3D software (like the products Artec listed above) practice Artec's patented technology.

6. Artec owns, develops, and sells 3D software known as the Artec Studio suite (the "Artec Software" or the "Artec Studio Software"). Artec's Artec Studio Software is used in conjunction with its 3D scanners to render a 3D image from the raw data received from the scanners. Artec's Artec Studio software allows users to explore and manipulate the 3D image and communicate it in a readable form to 3D printers and other devices.

7. Artec first published the Artec Software in 2010 and has released updated versions periodically. The Artec Software contains material wholly original to Artec and is copyrightable subject matter under the laws of Luxembourg and the United States. Artec owns the copyright in the Artec Studio Software in Luxembourg and through the world.

8. Significant resources were devoted to develop the Artec Studio software suite, as well as to develop Artec's patented 3D scanning technology. It took more than 12 years of several engineering departments of Artec and more than 6 major version releases, that were used and tested by several thousand client companies and over 100 global partners.

9. Artec's 3D scanning technology has received numerous awards including:

- Edison Awards - 2020 Award Winner
- 3D Printing Industry - 2019 3D Scanning & Metrology Company
- Golden Mousetrap Awards - 2019 Award Winner
- TCT Awards - 2019, 2018 Highly Commended
- NED - 2018, 2016 Innovation Award Winner.

9. I have examined Creality's CR Studio software and CR-Scan 01 Scanner products. I have also reviewed the materials on Kickstarter's website relating to Creality's second generation "Lizard" Scanner.

10. Creality provides copies of its CR Studio software at no additional cost to all its customers, which is necessary to operate the CR-Scan 01 Scanner and the Creality Lizard. Creality's CR Studio software is necessary to operate the CR-Scan 01 Scanner and the Creality Lizard.

11. Based on my investigation thus far, including my review of the CR Studio software, CR-Scan 01 Scanner, the materials posted on Kickstarter's website relating to Creality's second generation "Lizard" Scanner, and other resources, I have concluded that Creality's CR Studios software was copied from Artec's Artec Studio software.

12. As an initial matter, Creality's software performs the same function—namely, it renders a digital representation of the shape of an object in 3 dimensions and allows the user to manipulate the shape of the object.

13. Creality's software, however, accomplishes these tasks in the same way. First, it renders a 3D image from scanner data using the specific methods and techniques described in Artec's patent by rendering a 3D image of a scanned object from the raw data received from the scanner using structured light.

14. Second, the software not only allows the user to manipulate the digital representation of the object in a similar way—it has a near identical toolset displayed through a graphical user interface that is highly similar and, perhaps more importantly, operates in a near-identical manner.

15. This goes beyond mere visual similarity. Evidence suggests that Creality directly copied protectable portions of the Artec Software source code.

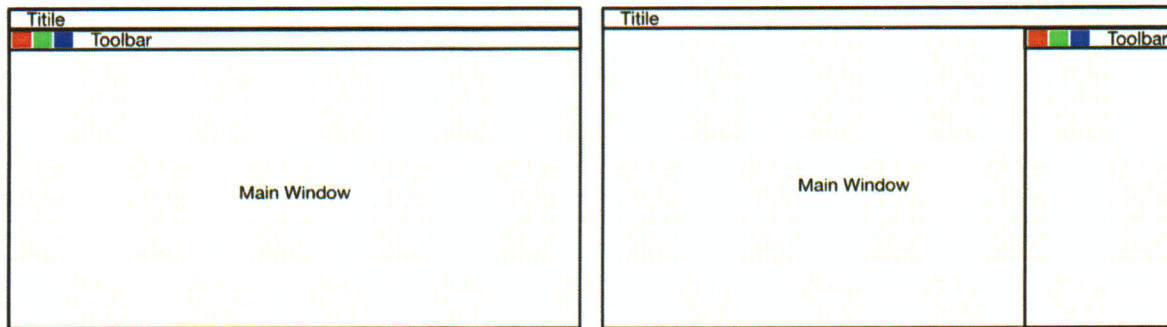
16. For example, an anomalous artifact in the Artec Studio software also appears in CR-Studio software that causes the user to observe the same specific, unique, counterintuitive behaviour in both programs. When a user “drags” an object by performing a circular motion with the mouse, it shifts the angle from which the object is viewed. When one returns the mouse to the original position, the angle likewise returns to its original position. This is normal. Yet, when one repeatedly performs this circular motion (and return the cursor to the same position), it not only shifts the user’s angle of view but rotates the *entire x, y, and z axes themselves*—effectively turning the object (and the vector space within which it exists) upside down. This counterintuitive and dysfunctional result in Artec Studio can be viewed in the movie: <https://tinyurl.com/y88pr5ra> and in CR Studio: <https://tinyurl.com/y75j836u>

17. Various aspects of the graphical user interface are not only superficially similar but indicate that Artec’s software architecture and code has been copied. These include aspects of the:

- a. 3D View
- b. Log window
- c. Workspace / Data panel

- d. Scanning Window
 - e. Align process and algorithm
 - f. On information and belief, other algorithms and data structures
18. The color gradient used in CR Studio's 3D View is identical to Artec Software.
19. The scheme to control the size of the image and viewpoint are identical in both applications. Both use the same commands:
- a. Rotation: click the left button mouse and drag to rotate the object;
 - b. Panning: press the middle button and drag to pan;
 - c. Zooming: scroll the mouse wheel or click the right mouse button and drag the mouse.
20. The top of the 3D View is occupied by a menu with buttons to switch between different viewing modes. The structure and behavior of the menu in CR Studio with perfunctory variations replicates the same menu in the Artec Studio.
21. From left to right in CR Studio, the menu items read: Home; Fit to View; Grid on/off; Light on/off; Representation Mode (Point / Wireframe / Surface / Surface with edge) – (corresponds to *Rendering mode* in AS); Texture; New buttons. In Artec Studio, the menu, from left to right has: Home; Fit to View; Grid on/off; Lighting on/off; Texture and Color; Rendering mode: (Solid / Wireframe / Points, etc.); Shading and Back surface culling mode.
22. Their behavior and relationships to other components of the application are identical: when the 'eye' icon is on for the object in the Workspace/Data Panel it is visible in 3D View and available for processing with algorithms.
23. Layout of the application in CR Studio replicates one in Artec Studio and doesn't reflect typical patterns in UI design. One significant example is the toolbar placement. Typical

Windows application has a toolbar right under the menu bar (like on the left image below). Artec Studio includes an uncommon non standard toolbar in a nested window (see the right image



below). This was an iconoclastic design decision; CR Studio mirrors this.

24. Features and tools—*but also objects*—in CR Studio have the same arbitrary names as in Artec Studio: “Scan# - ” for unprocessed data captured from scanner and “Fusion_# ” for processed meshes.

25. These artefacts and behavior do not serve any functional purpose or correspond to a set of established iconographic expectations or norms. There would be no reason to include it in 3D scanner software, or for Creality to have independently decided to include such an artefact in its own software. This indicates that the CR Studio software was copied from the Artec Studio software.

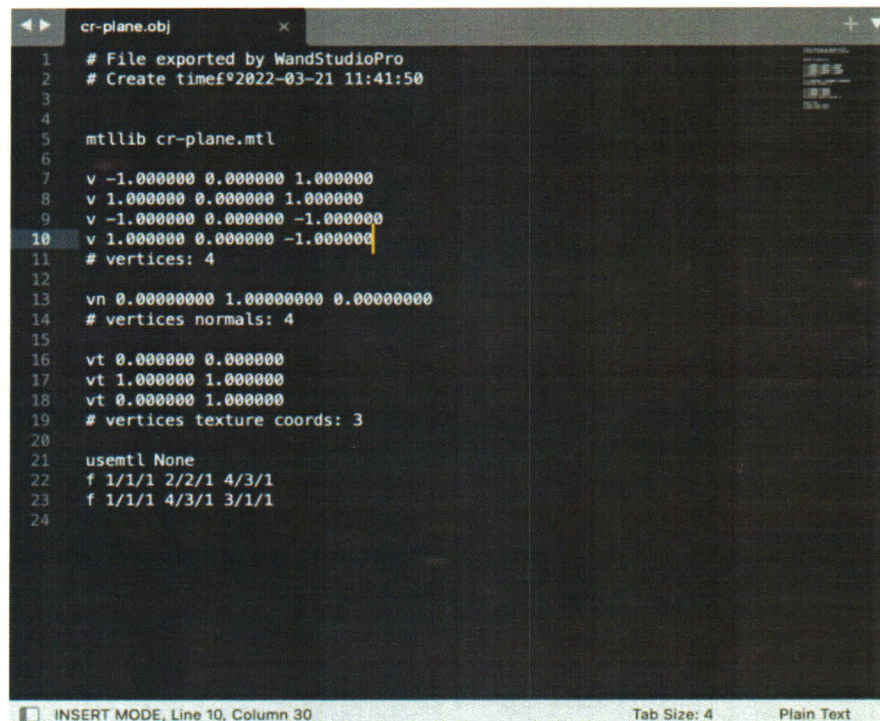
26. Evidence suggests that Creality gained access to the Artec Studio source code through a company called Shenzhen Jimuyida Technology Co., Ltd. (“Jimuyida”). Several former Artec employees (Andrey Klimov, Alexandr Lomakin, and Anna Zevelyov) left Artec and improperly copied and misappropriated Artec’s Artec Studio software. Thereafter, Artec was involved in litigation over the misappropriation of its intellectual property, and the case ultimately settled, with Artec retaining exclusive rights to its software and copyrights. Andrey Klimov joined Jimuyida, who copied Artec’s Studio Software and distributed it

under the “Magic Wand” name.

27. Artec has evidence including a May 2018 video wherein Jimuyida displayed a scanner manufactured by Artec (that it called the Magic Wand), claiming in a public exhibition that Jimuyida created it and using an external case to hide Artec’s brand information. Jimuyida renamed Artec Studio to “Ruler3D studio,” which was later renamed to “Wand Studio Pro.”

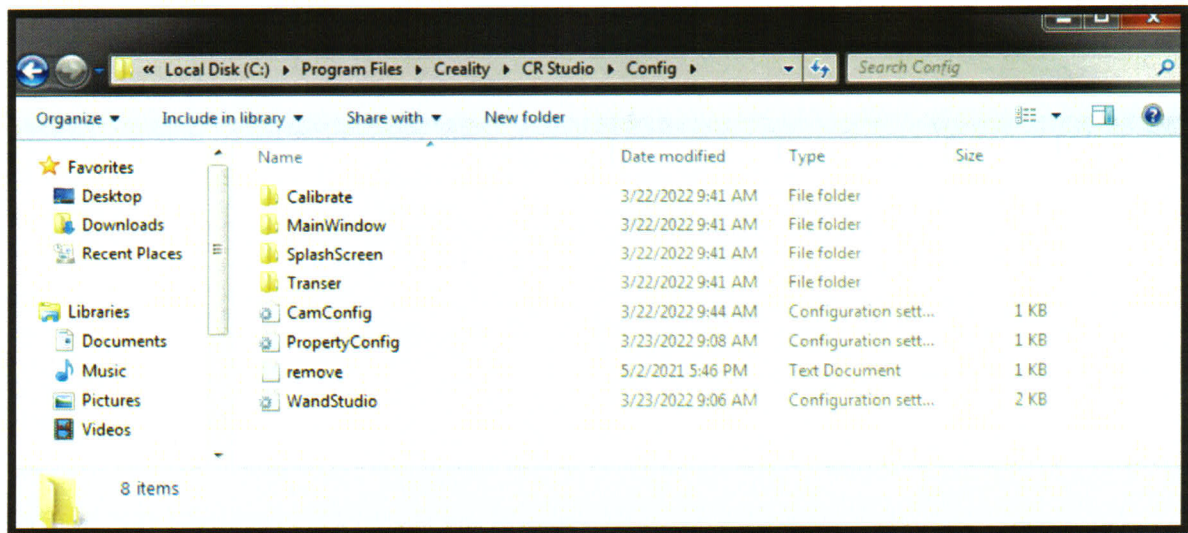
28. Creality Studio’s software installation contains numerous artifacts suggesting that it obtained Artec’s source code from Jimuyida. Over 90% of the same files and libraries in the CR Studio installation folder are identical to the Magic Wand software installation.

29. The Obj file exported from CR Studio contains a header “Exported by WandStudioPro.”



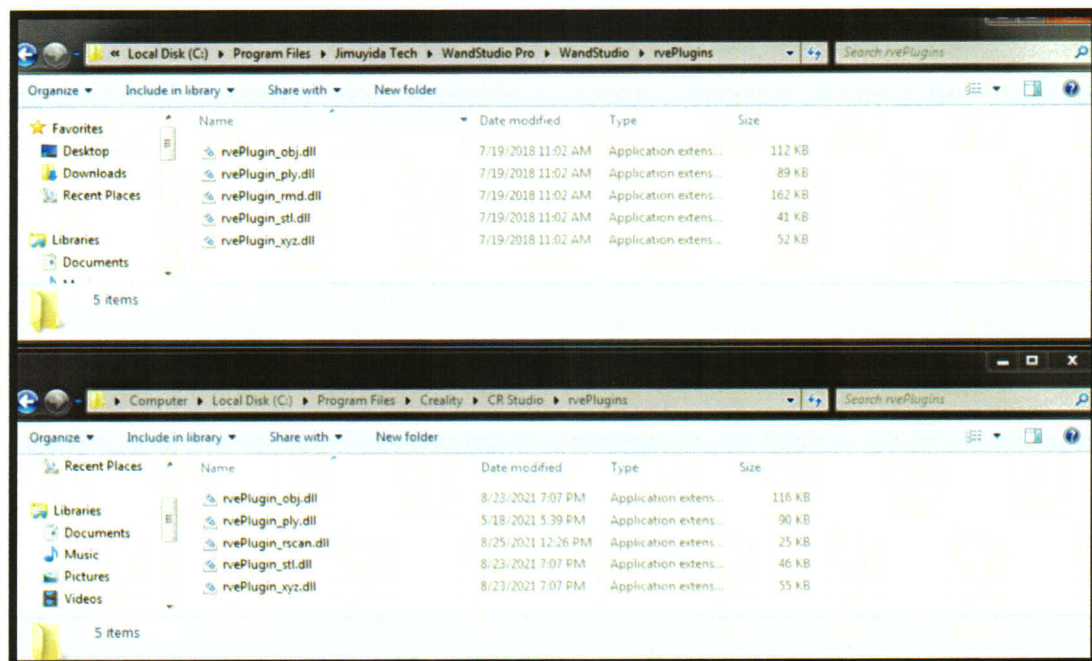
```
1 # File exported by WandStudioPro
2 # Create timeF92022-03-21 11:41:50
3
4
5 mtllib cr-plane.mtl
6
7 v -1.000000 0.000000 1.000000
8 v 1.000000 0.000000 1.000000
9 v -1.000000 0.000000 -1.000000
10 v 1.000000 0.000000 -1.000000
11 # vertices: 4
12
13 vn 0.00000000 1.00000000 0.00000000
14 # vertices normals: 4
15
16 vt 0.000000 0.000000
17 vt 1.000000 1.000000
18 vt 0.000000 1.000000
19 # vertices texture coords: 3
20
21 usemtl None
22 f 1/1/1 2/2/1 4/3/1
23 f 1/1/1 4/3/1 3/1/1
24
```

30. The folder, “CR Studio/Config,” contains a file named “WandStudio” after



installation.

31. The folders “rvePlugins” are the same for both CR Studio and Magic Wand software.



32. The scanning process in Artec Studio can be seen <https://tinyurl.com/ydd2zf89>, the same process in the CR Studio - <https://tinyurl.com/y7m9bp4x>.

33. Artec controls a meaningful share of the U.S. market in sales of handheld high-resolution 3D scanners.

34. Artec's scanners are more expensive than Creality's infringing Lizard device. Artec sells its Artec Leo scanner for roughly \$29,000 and its Space Spider 3D Scanner for roughly \$24,800. Artec sells its competing Eva scanner for roughly \$19,800, and Eva Light for \$9800. Artec offers an individual lifetime license to Artec Studio software for \$2,900.

35. Creality is selling its infringing Lizard Scanner at a dramatically lower cost than Artec's scanners.

36. Creality's sale and distribution of over 9000 infringing Creality Lizard scanners together with CR Studio software would allow a low-cost infringing products to enter the market that would reset consumer expectations for price based on goods created by a company that did not incur the research and development costs necessary to develop their products and instead infringe Plaintiff's patent and copyrighted software.

37. Should Kickstarter be allowed to transfer the funds to Creality, Creality will use the funds to manufacture low-cost scanners that infringe Artec's intellectual property and disseminate them to Kickstarter's accountholders, including accountholders in the U.S. market—causing Artec a loss of market share and cause irreparable price erosion.


38. The loss of market share and price erosion is a harm that cannot be compensated through damages.

39. Creality distributes its goods throughout the country, yet, based on our research, has no corporate footprint in the United States, no registered agent for service of process, or identifiable assets in the United States other than the funds currently in Kickstarter's possession.

40. Thus, if Kickstarter distributes those funds to Creality prior to the resolution of this dispute—it will not only fund and fuel Creality's patent and copyright infringement—Artec will have no way to hold Creality accountable for these violations.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 25th day of March, 2022, at 10.20 p.m. in Luxembourg, Grand-Guchy of
Luxembourg.


Gleb Gusev